

Exhibit D

Defendant.)

DECEMBER 2, 2016

254-399-9400

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1	APPEARANCES
2	
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21	ALSO PRESENT: Kim Cox and Tamra Fisher
22	
23	REPORTER'S NOTE
24	Uh-huh = Yes - Affirmative response
25	Huh-uh = No - Negative response
	Quotation marks are used for clarity and do not
	necessarily indicate a direct quote.
	Ellipses are used only to show that an answer has
	trailed off and not been interrupted.

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1	PROCEEDINGS
2	(DECEMBER 2, 2016)
3	(The reading of Federal Rule 30(b)(5)(A)
4	into the record was waived by all parties
5	present.)
6	JOE MCQUISTON,
7	having been first duly sworn, testified as follows:
8	DIRECT EXAMINATION
9	BY MS. FISHER:
10	Q. Sir, would you please state your full name for
11	the record.
12	A. Joe Don McQuiston.
13	Q. Okay. Mr. McQuiston, have you ever been
14	deposed before?
15	A. No.
16	Q. No. Okay. Now, I'm sure you've had an
17	opportunity to meet with the assistant U.S. attorney, but
18	I would like to make sure and go over the rules so it's
19	in the record. Okay, sir?
20	A. Uh-huh.
21	Q. This is going to be a written record. And
22	because it's a written record, we will need actual verbal
23	answers. Do you understand?
24	A. Yes.
25	Q. Because "uh-huh," "huh-uh," head nods, shakes

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1 hurt herself.

2 Q. Okay. Now, following that, there was an estate

3 sale that you went to. Am I correct, sir?

4 A. Yes.

5 Q. And, first of all, just before we get to that.

6 After Ms. Cox had this accident, she was placed on

7 limited duty, correct, sir?

8 A. Yes.

9 Q. Because she had certain physical limitations,

10 correct?

11 A. Yes.

12 Q. Now, they weren't permanent. Am I right?

13 MR. VISOSKY: Object to form.

14 Q. (By Ms. Fisher) Do you understand my question?

15 A. They -- yes. I -- wait. Now, ask the question

16 again.

17 Q. Sure.

18 A. I'm sorry. I'm sorry.

19 Q. And I'm only asking what you knew at the

20 time --

21 A. Uh-huh.

22 Q. -- okay, sir? But her limitations that

23 occurred that limited what she could do were not known to

24 be permanent limitations, correct?

25 MR. VISOSKY: Object to form.

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1 A. I can't answer that question because I'm not a

2 doctor. I can only go off of what the doctor says on the

3 CA-17.

4 Q. (By Ms. Fisher) Okay. Were you anticipating

5 her to recover?

6 MR. VISOSKY: Object to form.

7 A. I couldn't answer that question. I'd have to

8 wait 'til the doctor releases her for full duty.

9 Q. (By Ms. Fisher) Okay. Was there anything about

10 her injury that led you to believe that she was going to

11 be on limited duty, as a layperson, as a management

12 official?

13 MR. VISOSKY: Objection, form.

14 MS. FISHER: What's the problem with the

15 form?

16 MR. VISOSKY: It's repetitive, and it

17 calls for speculation. He's -- as he said, he's not a

18 doctor.

19 MS. FISHER: I think he can answer based

20 upon his knowledge as a management --

21 MR. VISOSKY: He can answer question, but

22 I --

23 MS. FISHER: Okay.

24 MR. VISOSKY: -- can preserve my

25 objection, yeah.

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1 MS. FISHER: Okay.

2 A. Ask me the question one more time.

3 Q. (By Ms. Fisher) Okay. Was there anything that

4 you saw, as a layperson, as a management official, that

5 led you to believe that any of this would be permanent?

6 MR. VISOSKY: Object to form.

7 A. No. We didn't -- we didn't -- we've had

8 several conversations while she was there. She was going

9 to her chiropractor.

10 Q. (By Ms. Fisher) Okay.

11 A. I couldn't -- but, again, I'll state this. I'm

12 not a doctor, and I can't tell you what her limitations

13 and how far the injuries' going to last because you

14 can't. You just have to wait until she's released for

15 full duty from the CA-17.

16 Q. Okay. Now, with that said, do you recall going

17 to an estate sale?

18 A. Yes.

19 Q. Okay. Tell me what led up to you going to that

20 estate sale.

21 A. Led up to me going there?

22 Q. Uh-huh. Why did you go?

23 A. Ronnie Sartors, either on Facebook, or whatever

24 it is now -- because I don't have Facebook, but my wife

25 does -- had an estate sale. And there were some tools on

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1 there, and I -- I can't -- to my -- best of my knowledge

2 if I called him or I had her Face -- FaceTime him, or

3 whatever it is, you know, they do.

4 Q. Uh-huh?

5 A. Say there was some tools that I was interested

6 in and remind me of that sale date. And I asked if I

7 could come buy them then, and he said, no, I had to wait

8 on the day of this sale because the lady, whoever she

9 was, putting on the sale.

10 That morning, I ran the floor like I

11 normally do. I scheduled myself to go out with a rural

12 carrier named Rachel Knoebel on her route for a yearly

13 inspection, to count her rural boxes and her mileage.

14 Q. Uh-huh.

15 A. I was walking out with my clipboard in my hand,

16 and my cell phone rang, and it was Ronnie Sartors.

17 Q. Okay.

18 A. He asked me, "Hey, you coming out here?" I

19 informed him that I totally forgot. He informed me that

20 there were two other postal employees out there. One was

21 Debbie Isaacs and the other was Kim Cox.

22 Q. Uh-huh.

23 A. And that's when I said, "Kim Cox, what is she

24 doing out there?" And he said that she was purchasing

25 some things, and I said, "I'll be out there." So at that

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1 canceling the inspection. I went into my office. I
 2 might have grabbed my vehicle keys, and I exited the
 3 building.
 4 Q. Did you stop to give any instructions to
 5 someone since you were leaving the workroom floor?
 6 A. No, I can't -- not to my knowledge.
 7 Q. Okay.
 8 A. I can't remember.
 9 Q. Did you tell anybody when you would be back on
 10 the workroom floor, or when to anticipate you to be back?
 11 A. Not to my knowledge. I can't remember.
 12 Q. Who was the supervisor in charge of the floor
 13 that day?
 14 A. That morning?
 15 Q. Well, when you left?
 16 A. That would be Cynthia Freeman.
 17 Q. Okay. And do you often leave the work -- the
 18 post office without informing a supervisor?
 19 A. No. I told Cynthia that I would be gone. I'll
 20 be back -- but I'll be back. I'm coming back. I've got
 21 to go do something.
 22 Q. Okay. So you would have told the person you're
 23 with, we're going to discontinue what we're doing?
 24 A. Yeah. She was just right there --
 25 Q. Yeah.

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1 A. -- walking out.
 2 Q. And then you would have gone to your office to
 3 have gotten your vehicle keys?
 4 A. Uh-huh. That's about maybe two minutes.
 5 Q. Okay. And then you would have made sure
 6 Ms. Freeman knew you were leaving the workroom floor?
 7 A. That's another minute walking through and then
 8 going out the door.
 9 Q. Okay. And so basically we can estimate at
 10 least about 5 minutes from the time you took the phone
 11 call before you got into your vehicle and left the post
 12 office. Would that sound about right?
 13 A. Agreed. Yes.
 14 Q. And then you immediately went on your way to
 15 Overton? Am I --
 16 A. Yes.
 17 Q. -- correct? Okay.
 18 Now, when you arrived at the real estate
 19 sale, sir, what did you do?
 20 A. I drove through the entryway. Went around and
 21 parked behind the -- I guess it was a detached garage or
 22 detached shop. Walked through the door. Ronnie was
 23 there because he was over that shop. I walked out to
 24 Ms. Cox's vehicle, walked around it, observed boxes that
 25 she's already purchased and put in there from the estate

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1 sale. And then I stood at the -- I guess it was the
 2 garage entryway right there, and the car was probably --
 3 I can't remember what I put in my statement. I'd have to
 4 look at my statement. Twenty -- you know...
 5 Q. It was quite a ways, wasn't it?
 6 A. No.
 7 Q. Okay.
 8 A. I walked probably about 15 steps, and I was --
 9 20 steps, and I was halfway.
 10 MR. VISOSKY: Let me just tell you, if you
 11 feel comfortable, if you want to look at the items that
 12 you brought today, you're -- you're welcome to do that.
 13 MS. FISHER: I will do that when I want to
 14 in my deposition.
 15 MR. VISOSKY: He can -- he can review
 16 documents that --
 17 MS. FISHER: I will do that.
 18 MR. VISOSKY: -- he's brought.
 19 MS. FISHER: I will do that.
 20 MR. VISOSKY: I'm just letting him know
 21 that if he feels comfortable --
 22 MS. FISHER: We will go over it. I -- I'd
 23 like to have the testimony prior to know what they
 24 remember, then we can go in and fill in the blanks.
 25 MR. VISOSKY: That's --

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1 A. Okay.
 2 MR. VISOSKY: That's fine.
 3 Q. (By Ms. Fisher) Would I be correct, there were
 4 numerous cars there that day?
 5 A. I don't remember.
 6 Q. Okay. You don't remember. Do you recall when
 7 you went into the building that if -- whether or not
 8 there were other people that were in that building?
 9 A. I think there was one gentleman to the corner
 10 over here (indicating).
 11 Q. And you pointed to --
 12 A. I'm sorry.
 13 Q. -- your right?
 14 A. I'm sorry. The doors -- if you've never been
 15 out there, the two doors are facing this a way, and then
 16 you have, I think, a door here. Maybe I went around. I
 17 can't remember. There might not even been a door. But
 18 you come around, and the gentlemen was in the far corner
 19 over here (indicating).
 20 Q. Okay.
 21 A. If you're looking inside the building, he's to
 22 your left then --
 23 Q. Okay.
 24 A. -- in the corner there.
 25 Q. And when --

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1 A. Or when I was out from the supervisor to the
2 postmaster position, sometime in that year, sometime in
3 that...
4 Q. Have you looked at her medical restrictions?
5 A. Yes.
6 Q. Okay. Have you seen anything in her medical
7 restrictions that limits what she can pick up?
8 A. I'd have to look at them. I can't -- I can't
9 tell you perbatim what they are, but I have reviewed
10 them. I just can't tell you what they are right now.
11 Q. And as you sit here today, did you ever check
12 whether or not what Ms. Morris may be picking up exceeded
13 her weight limitations?
14 A. I did call the OIG one time, and he said he
15 already investigated that.
16 Q. And my question is -- and I'm going to ask it
17 again. Okay, sir? Did you ever personally check whether
18 the things that she was picking up would have exceeded
19 her lifting restrictions?
20 A. No.
21 Q. Okay. Do you get any incentives if you have
22 anything where you're finding fraud?
23 A. Repeat that question again.
24 MR. VISOSKY: Object to the form.
25 Q. (By Ms. Fisher) Do you get any incentives as a

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1 management official if you can say, "I found fraud"?
2 A. What's the definition --
3 MR. VISOSKY: Object to form.
4 A. -- of "incentives"?
5 Q. (By Ms. Fisher) Anything that would be
6 something that --
7 A. A pen?
8 Q. Anything, sir.
9 A. No.
10 Q. No? Nothing?
11 A. Nothing.
12 Q. Why did you ask me what I thought was an
13 incentive?
14 A. I needed to know your definition of an
15 incentive.
16 Q. Okay. So what do you think that you received
17 that may not be within my definition of an incentive that
18 would make you ask that question?
19 MR. VISOSKY: Object to form.
20 A. I asked the question.
21 (Exhibit 4 marked)
22 Q. (By Ms. Fisher) Okay. Okay. I'm going to have
23 you look at what is Exhibit No. -- Deposition Exhibit
24 No. 4.
25 MS. FISHER: There you go, sir.

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1 Q. (By Ms. Fisher) And it would be one -- actually
2 one of the items that you brought, sir; but this one I'll
3 go ahead and mark for the record. You can take a look at
4 it, and then let me know when you've seen it.
5 A. (Witness peruses document.)
6 Q. Do you recognize this document, sir?
7 A. Yes. That's my statement.
8 Q. Okay. Now, at the very beginning of this it
9 says, "Status." And it puts on there, "On limited duty
10 with restrictions; reporting at 8:00 a.m. to 16:30 p.m.
11 30-minute lunch; placed on stand by time; sits in the
12 Passport Office."
13 What duties was Ms. Cox doing in the
14 passport office?
15 A. It's -- it's a small room where we take
16 passports. There is a phone in there. I don't remember
17 if she could -- if she was answering the phone or not,
18 but that's pretty much it.
19 Q. Okay. Well, so in essence, she was being
20 ordered to come into work every day?
21 MR. VISOSKY: Object to form.
22 Q. (By Ms. Fisher) Correct? I mean, she was
23 scheduled to come into work, correct?
24 A. Correct.
25 Q. Okay. And she was then informed, which is

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1 ordered --
2 A. Uh-huh.
3 Q. -- that she would be sitting in the passport
4 office, correct?
5 MR. VISOSKY: Object to form.
6 A. She -- there is a form, and I can't remember
7 the numbers. It's a 30-something X. You write down what
8 her duties are, which falls in between her restrictions.
9 And if I filled it out, she signed it. And I don't know
10 if it's in that packet or not.
11 MS. FISHER: Okay. Objection,
12 nonresponsive.
13 Q. (By Ms. Fisher) But my question is: That she
14 was being required to show up at the post office and go
15 to the passport office, correct?
16 A. Yes, that's correct.
17 Q. Okay. And if she was given no duties, she was
18 being made to come in and sit down at the post office
19 with virtually nothing to do?
20 MR. VISOSKY: Object to form.
21 Q. (By Ms. Fisher) Correct?
22 A. Correct.
23 Q. Okay. Why?
24 A. Because of her limitations --
25 Q. Okay.

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1 CHANGES AND SIGNATURE

2 WITNESS NAME: JOE MCQUISTON

3 DATE OF DEPOSITION: DECEMBER 2, 2016

4 PAGE LINE CHANGE REASON

5 _____

6 _____

7 _____

8 _____

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10 _____

11 _____

12 _____

13 _____

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25 _____

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1 I, JOE MCQUISTON, have read the foregoing deposition

2 and hereby affix my signature that same is true and

3 correct, except as noted above.

4 _____

5 JOE MCQUISTON

6

7 THE STATE OF _____)

8 COUNTY OF _____)

9

10 Before me, _____, on this day

11 personally appeared JOE MCQUISTON, known to me (or

12 proved to me under oath or through _____)

13 (description of identity card or other document) to be

14 the person whose name is subscribed to the foregoing

15 instrument and acknowledged to me that he/she executed

16 the same for the purpose and consideration therein

17 expressed.

18 Given under my hand and seal of office on this _____

19 day of _____, _____.

20

21 _____

22 NOTARY PUBLIC IN AND FOR

23 THE STATE OF _____

24 My Commission Expires: _____

25 _____No Changes Made _____Amendment Sheet(s) Attached

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1 REPORTER'S CERTIFICATE

2 ORAL DEPOSITION OF JOE MCQUISTON

3 DECEMBER 2, 2016

4

5

6 I, Amber Collins, Certified Shorthand Reporter in

7 and for the State of Texas, hereby certify to the

8 following:

9 That the witness, JOE MCQUISTON, was duly sworn by

10 the officer and that the transcript of the oral

11 deposition is a true record of the testimony given by

12 the witness;

13 That the original deposition was delivered to

14 Ms. Fisher, Custodial Attorney.

15 That pursuant to information given to the deposition

16 officer at the time said testimony was taken, the

17 following includes all parties of record and the amount

18 of time used by each party at the time of the

19 deposition:

20 Ms. Fisher (2 hours, 34 minutes)

21 Attorney for Plaintiff

22

23 Mr. Visosky (0 hours, 17 minutes)

24 Attorney for Defendant

25 That a copy of this certificate was served on all

parties and/or the witness shown herein on

_____.

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1 I further certify that pursuant to FRCP Rule 30(3)

2 that the signature of the deponent:

3 X was requested by the deponent or a party

4 before the completion of the deposition and that the

5 signature is to be before any notary public and returned

6 within 30 days from date of receipt of the transcript.

7 If returned, the attached Changes and Signature Page

8 contains any changes and the reasons therefore.

9 _____ was not requested by the deponent or a

10 party before the completion of the deposition.

11 I further certify that I am neither counsel for,

12 related to, nor employed by any of the parties or

13 attorneys in the action in which this proceeding was

14 taken, and further that I am not financially or

15 otherwise interested in the outcome of the action.

16 Certified to by me on this 19th day of

17 December, 2016.

18

19

20

21


22

23

24

25

Amber Collins, CSR
Texas CSR 9086
Expiration: 12/31/2016



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1 STATE OF TEXAS)
2 COUNTY OF RUSK)
3

4 I hereby certify that the witness was notified on
5 _____ that the witness has 30 days or
6 (_____ days per agreement of counsel) after being
7 notified by the officer that the transcript is available
8 for review by the witness and if there are changes in
9 the form and substance to be made, then the witness
10 shall sign a statement reciting such changes and the
11 reasons given by the witness for making them;

12 That the witness' signature was/was not returned as
13 of _____.

14 Subscribed and sworn to on this, the _____ day of
15 _____, 2016.
16
17
18
19
20

21 _____
22 Amber Collins, CSR
23 Texas CSR 9086
24 Expiration: 12/31/2016
25